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The State Bar Convention

FIFTH ANNUAL MEETING AT CORONADO POORLY ATTENDED. IMPORTANT MATTERS ACTED UPON. TRUST DEED REFORM MEASURE

By Ewell D. Moore of the Los Angeles Bar

It seems a pity that not more than 400 of the 12,000 members of the State Bar found it convenient to attend the Fifth Annual Convention at Coronado. With matters of more than ordinary interest to the lawyers of California on the program, it would seem that there was sufficient incentive for members to lay aside every-day matters and take part in the business of their organization. But it appears that only a few can be depended upon to be on hand from year to year, and that these few are often crticised and condemned by many of those who do not attend, whenever any real action is taken.

There were many incidents and items of more than usual interest and importance on each of the three days' programs, not the least of which was the luncheon at Agua Caliente, on the closing day. The San Diego Bar Association arranged this pleasing diversion, and omitted nothing in the way of refreshments, food and music. Of course this was one social function that was well attended—and enjoyed.

McBeth's Great Speech

The one outstanding dramatic feature of the Convention was the speech of Hugh McBeth of the Los Angeles Bar, in successfully supporting his minority report approving initiative No. 3 on the November ballot for the reform of the trust deed. McBeth is a real orator. In urging the adoption of his minority report at the Saturday morning session, which provides for a year's redemption period and foreclosure by court action, the Los Angeles lawyer had the biggest audience of the entire session. And he held them as no other speaker had done, in an hour's masterly argument. It may be said with certainty that the adoption of the minority report by the convention was due to McBeth's speech. It was adopted by a standing vote, and it looked close, but President Crump, who was presiding, announced that the chair was not in doubt.

Many of the older, so-called conservative leaders of the bar voted for McBeth's minority report. The vote climaxed the convention program, and adjournment was taken immediately afterward, with everybody in a good humor and ready for the Agua Caliente luncheon.

President Crosby's Address

President Crosby in his annual address, made a surprisingly vigorous attack upon the banks, trust companies and other corporations which have invaded the field of law practice.

"It appears to me," he said, "that of all the lay institutions, which, by their actions, threaten to control the major part of the law business in the State, the banks having trust departments, and the trust companies, which engage in advertising for and soliciting almost every type of trust business, including that of acting as executors, administrators and guardians of estates, are the chief offenders.

"It follows, as a matter of course, that if they be permitted to continue these activities unrestrained, it will not be many years before they will actually control not only the law business but every other business in which our people are engaged. They have been particularly active during the last fifteen years without any type or semblance of resistance or opposition until they have grown so powerful that it would seem futile for the State Bar, or even the people themselves, to attempt to restrain them."

More Time of Supreme Court for Los Angeles Demanded

Robert M. Clarke, of Los Angeles, in an interesting discussion of the Appellate calendars, urged the demands of Los Angeles for more time of the Supreme Court. He called attention to the fact that Los Angeles furnishes 60 per cent of the calendars of the Appellate courts, and he thought that the Supreme Court should make provision for a department to sit here for a month at a time, and also hold opinion days, and dispose of causes orally.

"If a department of the court might remain in Los Angeles for a period of 30 days and give a day each to the argument of ten cases, it would seem to me that in the remaining 20 days those ten cases might be decided and department opinions filed," said Judge Clarke. "A

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New Home of United States Supreme Court

DEDICATED AT WASHINGTON. CHIEF JUSTICE HUGHES REMARKS

On October 13th President Hoover laid the corner stone of the new Supreme Court building at Washington. The ceremony was participated in by Chief Justice Hughes and Guy A. Thompson of the American Bar Association. Members of the American Bar Association from all parts of the country were present at the ceremony.

Notables Are Present

The Supreme Court justices were there in their robes of office; members of the cabinet and of the diplomatic corps; distinguished representatives of the legal profession of this and other countries. Mrs. Hoover and Henry M. Robinson of California, accompanied the President.

To one of the spectators the event had special significance. This was the widow of William Howard Taft, who in the office of President and Chief Justice, had looked to the day when the court would have its own shelter.

The Chief Justice spoke on behalf of the court; for the bar, John W. Davis spoke.

As the Supreme Court has marched, step by step, with the Union, Davis said, it has been unsullied by "breath of scandal," and so long as it "continues with courage and fidelity upon its appointed path, so long—and no longer—will the Republic of the founders endure."

"We are in a time of keen distress and widespread misgiving," Chief Justice Hughes said. "It is a world of unrest. The perennial strife with lawlessness has assumed new aspects and has brought society to new and serious tests of its ability to protect itself. Few, if any, have the gift of prophecy.

"This edifice, however, attests confidence. It suggests permanence—not the permanence of stone and steel, but of an idea; not, in this respect, of particular formulas, but of a conception of the basic needs of our organized society.

Rests on Belief in People

"That confidence and suggestion of permanence spring no doubt from a belief that our people have political instincts and convictions which are not likely to be uprooted; that government of the people, for the people, by the people, notwithstanding all shortcomings, is not to perish; that such a Government will continue to have, as it has had, its written prescriptions to secure distribution and limitation of governmental power; that our territory is too vast and our political concerns too various to permit of any absolute centralization of authority.

day's discusson before three justices ought to so thoroughly acquaint the court with the issues that no longer two days would be necessary to prepare an opinion, if both the argument and the opinion received the undivided attention of any three of the distinguished lawyers who now grace the Supreme Court."

He criticised the practice of the Supreme Court in handing down *"per curiam"* opinions. He said:

"I do not know how the rest of the Bar feel about it, but I would rather have a decision written and signed by one member of the court, than to receive a decision neither signed nor sponsored by any member of the court."

The speaker also referred to the difficulty of convincing a litigant that an opinion of the Supreme Court is valid when it is signed by no one.

If the practice continues, he believed, by the court, opinions may soon be handed down without any reference to those who either concur or dissent.

Criminal Law and Procedure

Byron C. Hanna, of Los Angeles, presented a report by the Committee on Criminal Procedure, which contained a number of recommendations for immediate consideration by the State Bar. It urges the amendment of Section 925 of the Penal Code to provide that if an indictment has been found against a defendant, the transcript of the testimony before the Grand Jury shall be prepared as soon as possible and served upon the defendant, and in any event within five days after the discharge of the Grand Jury, or if it has not been discharged, then at least ten days before the trial date.

It also recommends a new subdivision to Section 995 of the Penal Code to provide that an indictment shall be set aside where the evidence presented before the Grand Jury, upon which the indictment was returned, does not embrace competent evidence sufficient to show that a crime has been committed and that there is probable cause to believe that the defendant is not guilty of the matters charged; and that a motion to set aside an indictment on this ground may be made at any time within five days after a copy of the transcript of the evidence before the Grand Jury has been served upon the defendant.

The third recommendation is that a new section be added to the Penal Code to provide that in all cases prosecuted on an indictment, where the indictment is insufficient to advise the defendant of the particulars of the offense charged, he may apply to the Court for an order requiring the prosecution to furnish a bill of particulars, and that the evidence introduced at the trial shall be substantially confined to the bill of particulars.

Scientific Penology Plan

The Committee recommends for favorable consideration of the State Bar a plan of Scientific Penology heretofore recommended by the Los Angeles Bar Association and submits an outline of the plan as a part of its report. This plan was printed in full in THE BULLETIN several months ago, and received wide publicity at the time.

State-Wide Committee of Fifteen

An interesting report from the Statewide Committee of Fifteen, Arnold Praeger, of Los Angeles, Chairman, was submitted to the Convention, dealing with the necessity of informing the public of the true functions of the Bar. The report recommends the appropriation of $6,000 to defray the expenses of the work outlined by the Committee for the ensuing year. It summarizes the attitude of the lawyers toward the State Bar as follows:

"There are sixty-one known voluntary associations of lawyers in this State. It appears, quite generally, that members thereof feel that they owe their allegiance to their local association first and to The State Bar second, if at all. As a matter of fact, in some cases, an attitude of violent opposition to The State Bar has been assumed. The State Bar is looked upon as a thing apart and to be combatted.

"We do not mean by this that local bar associations have not in the past, or do not now, serve a useful purpose. In fact, due to the short existence of The State Bar, most of the accomplishments of direct public benefit have been due to the efforts of bar associations.

"At present in some localities there are two or more associations of lawyers that are, in some degree at least, antagonistic to each other.

"The situation thus presented is of grave importance and efforts to remedy it should be made without delay.

"The solution of this problem is not one of the functions of this Committee. We, however, advance the suggestion that The State Bar may be integrated if organized on the county chapter plan."

At the Friday afternoon session, Mrs. Mab Copland Lineman, of Los Angeles, delivered an interesting and instructive talk on "Taking Stock." Mrs Lineman did not hesitate to tell the members some pointed truths about themselves, and the degree of confidence, or the lack of confidence, in which the public holds them.

Resolutions Adopted

A series of resolutions covering a wide range of subjects were adopted at the second day's session. The resolution which brought out the most prolonged and somewhat heated debate was the one to appropriate funds to combat the unlawful practice of law. The result was that $10,000 is to be made available for that purpose.

A resolution to create a new Budget and Efficiency Committee to look into the system of expenditures by the Board of Governors was adopted.

The Convention also adopted a resolution that no attorney who, in the past two years, has received a retainer or fees from any bank having a trust department, or from any title or trust company, shall serve on any committee having to do with the unlawful practice of the law.

The taking of photographs during a court trial and the broadcasting of court proceedings by radio or otherwise, was also the subject of a resolution adopted by the Convention. A resolution to amend Section 281 C.C.P., and subdivision 13 of Section 1209 C.C.P., to make it a contempt of court for a layman to practice law was adopted; there was also a resolution adopted for the appointment of a committee to inquire into the proper functions of Grand Juries; and another committee to study the Workmen's Compensation Fund.

Radio Broadcasts of Court Proceedings

COMMITTEE ON PROFESSIONAL ETHICS OF AMERICAN BAR ASSOCIATION CONDEMNS LOS ANGELES INCIDENT.

In an opinion published in the American Bar Association Journal for August, (Opinion 67), concerning the broadcast direct from the courtroom during a recent Los Angeles murder trial, the committee on professional ethics says:

"Our attention is called to the fact that direct-from-the-court-room radio broadcasts were made of proceedings of a recent murder trial and to a resolution of the Committee on Improper Publicity of Court Proceedings, of the Los Angeles Bar Association, condemning such broadcasting of court proceedings from courtrooms.

"We are asked to express an opinion as to whether it is proper for a judge to permit his courtroom to be used for the radio broadcasting of any of the proceedings of the court over which he presides.

The committee's opinion was stated by Mr. Gallert, Messrs. Howe, Hinkley, Harris and Carney concurring.

"Judicial proceedings should be conducted in a dignified manner. Radio broadcasting of a trial tends to detract from that dignity and to change what should be the most serious of human institutions either into an enterprise for the entertainment of the public or into one for promoting publicity for the judge.

"Using such a trial for the entertainment of the public or for satisfying its curiosity shocks our sensibilities. The promotion of publicity for a judicial officer by such means is prostitution of a high office for personal advantage and is contrary to Canon 34 of the Canons of Judicial Ethics which provides that a judge should not 'administer his office for the purpose of advancing his personal ambitions or increasing his popularity'."

Cooperation Between Press and Bar

COMMITTEE SUBMITS IMPORTANT REPORT TO AMERICAN BAR ASSOCIATION

Of the many committee reports submitted at the Annual Meeting of the American Bar Association at Washington, which has just closed, none presents a more interesting and vital subject to lawyers than that of the Committee on Cooperation Between the Press and the Bar. THE BULLETIN prints the substance of this report because it has not been carried in the newspaper reports of the meeting. It says:

"During the last year there have been only two instances, within our observation, where the general press has seemed to indulge in degrading and detrimental excesses. The Massie-Fortescue trial in Honolulu was exploited by the daily newspapers throughout the United States for all its theatrical resources; and while we did not observe that their stories would directly impede the processes of the court, neither did we see any evidence that the presiding judge sought to discourage the enterprise of the press in advertising his court as a sensational showplace. Such leniency on the part of the judges, we believe, results in a virtual license for the offensive practices of the press, and for which the responsibility rests mostly upon the court itself.

The Lindbergh Case

"The Lindbergh kidnapping outrage has supplied the other notable occasion for newspaper extravagances. In that case the press exploited the crime, and exposed every incident of the pursuit of the supposed criminals, to the obvious hindrance of the police officials, and the possibility that such activities conduced to the tragic finale. But in such early stages, the criminals never having been apprehended or identified, there were no judicial proceedings; so with respect to the committee's self-imposed limitation to matters directly concerning the courts, it could scarcely devote its efforts to a matter which did not develop beyond the preliminaries.

"The work of this committee has received valuable aid during the year from new advocates of its purposes. Stuart H. Perry of Adrian, Michigan, formerly a lawyer, now an influential journalist, gave strong evidence of his support in an address delivered to Michigan State Bar Association last October, under the title 'The Courts, the Press, and the Public' which has been widely republished, even so far as the Philippine Islands. He is on the program to address our Conference of Delegates at the coming annual meeting on the important subject of judicial selection. Charles T. LeViness III of Baltimore, formerly a newspaper man, now a well-known lawyer, made a penetrating and practical address on "Crime News" which was first published in the Baltimore Evening Sun.

Newspaper Cooperation

"The Brooklyn Daily Eagle has established a series of articles in its Sunday edition dealing with legal matters and courts under the pen of Thomas S. Rice, an accomplished lawyer and writer, who makes the material entertaining and instructive in a popular style for the largest class of readers. Others of the great metropolitan newspapers, notably the *Times* and *Herald Tribune* of New York, the *Tribune* and *Daily News* of Chicago, continue to give frequent and forceful attention to the judiciary in their editorial matter, and with noticeable abatement of the sensationalism and flippant comment concerning the courts which many members of the press in general have freely employed in the past. There is an unmistakable trend of better regard in the press for the processes of the courts and the interests of the judiciary.

"The schools of journalism continue to be alert, and occasionally they invite the members of the committee to address them. A notable occasion of this sort took place last December 3d at the University of Wisconsin, where for two hours after a dinner the students of the Department of Journalism and their guests, about 50 in all, listened to a comprehensive talk by the chairman of this committee and plied him with questions and discussions.

"The drama and the moving pictures continue to victimize the courts and the legal profession, for purposes of amusement, in absurd and damaging portrayals. Their authors should be brought within a like influence for better understanding and methods as is being exercised on the press, and we recommend that the formation of a spevial committee or a sub-committee for such purpose be carefully considered."

A College of Judges — Judicial Selection

A REVIEW FROM THE VIEWPOINT OF THE STATE OUTSIDE THE BIG CITIES

By George Varnum, of the Los Angeles Bar (La Habra, Orange County)

It is natural, of course, that the pages of THE BULLETIN should be filled from Los Angeles, and the State Bar Journal from Los Angeles and the other big cities. Yet it is a fact that the State of California is not *all* in the big cities—in fact, registers quite a domain outside them. Such a blunt statement may seem discourteous and be quite a shock to the big city minds, nevertheless, I think it should be made.

Allow a variation for just once and permit the viewpoint of the "outside the big city," to be presented.

All discussion of bar matters and bench matters, of plans for selections of judges, efforts to make life tenure with appointments by politicians who have themselves been elected by voters, instead of direct by the voters themselves, is from the status of the big city. It is always preceded by the humiliating confession that the big city lawyers have utterly failed to maintain a properly functioning Judiciary. They then, with amazing assurance, proceed to tell the whole state that such and such changes must be made in selection methods that will affect the greater area outside the big cities, as though it too was as corrupt as confessed for metropolitan areas. And it is nowhere claimed that except in the big cities, the present elective system has failed.

St. Paul, writing of those who "measuring themselves by themselves and comparing themselves among themselves" decided that they "are not wise." And so these proponents of new systems should raise their eyes from the filth of big city judicial politics and enlarge the vision to at least include all the neighboring section of the state before it is alleged with such smug assurance,

"In practice the elective system has broken down. In populous counties of 100,000 *or more, that is true absolutely."*

Perhaps that is true of the big city counties of a quarter million up, but when these writers from their point of vantage in Los Angeles, (whose canon streets obscure the vision), assume to speak for Orange County and other Southern California territory that they are not familiar with, they become, unfortunately, largely non-illuminating.

"Prophets of Evil"

I have followed for years the prophets of evil who bewail the fact that *the people,* instead of themselves, or some one who has been elected to some other political office, have the naming of our judiciary. Some of the elder statesmen of the California Bar Association know that I labored with them to establish our State Bar, a fact of which I am extremely proud. I am no novice in observance of the dextrous ways in which conventions and State Bar sessions are stormed and "ganged-up" for pet measures, as when the Commonwealth Club "ganged" on us once and actually got their silly scheme for a non-elective, life tenure bench approved, but by only enough votes to control an election in one ballot box at Hookum Corners, while the rest of the state would vote "No" including at least nine-tenths of the Bar.

And so, as I read plan after plan to cure the alleged evils of democratic selection of judges I pity the incompetence of the big city lawyers who so frankly confess, as the basis for a change, their own inability to have and to hold the respect of the voters sufficiently to assure the election of judges whom *they* deem suitable. I am reminded of that great saying that so many "modern" statesmen seem to have forgotten:

The remedy for the evils of democracy is —more democracy!

And now reverting to Mr. Enfield's assertion that *"it is true, absolutely, that in counties of* 100,000 *or more, the elective system has broken down."*

I do not dispute the statement as to Los Angeles, either that it is "populous" or that its results in election of judges seems sometimes to have been a sorry mess. Whether this is due to the "elective" system, or its "nominating" system, or its "campaigning" system (which seeks to make every member of the Los Angeles Bar Association a "campaign contributor" to the election of every judge), or to its "hand-picking" systems, corporate, political, back office, etc., I leave those better versed in big city politics to determine! I am even tempted to leave them the task for first cleaning and

then keeping clean their Augean stables. I hesitate to attempt to name the Hercules for that truly Herculean task—a job of judicial stable cleaning that has been accumulating for, was it 30 years?

Were I a big city attorney (thank God I am not!) I would not accept the dicta of the near-sighted ones whose afflicted eyes even with glasses cannot see to the boundaries of the next county. Since the burden is not on me at present to accept the plea of guilty as charged and fix a penalty, I will leave Los Angeles and other "populous" counties to wallow as they may be minded, and extricate themselves through any Moses who may be willing to attempt to show them a Promised Land, where the judiciary will be in no wise contaminated by even remote association with the people whose rights and liberties are entrusted to it, and whose only privilege will seem to be to pay the taxes for their salaries.

My present contention is confined to the determination of the State, bar, bench and laymen, that no remedy for the judiciary evils of the big cities shall be impudent enough to demand that the clean portions of the state shall be subjected to the heroic measures confessedly necessary for big cities, and thus drag us down to their level.

The elective system has not broken down throughout California. The best parts of California still have enough intelligence and integrity, plus independence, to express through its voters a discriminating sense of fitness of the candidates for judges; to elect judges who are creditable citizens as men and lawyers, and who administer the law in marked distinction from big city receivership scandals, underworld selections, big shot gamblers and vice lords "approved lists" of candidates and even Grand Jurors.

Orange County View

Orange County is a "populous" county. It is a pleasant county to drive through. I suggest that the dissatisfied one direct his "Austin" hitherward at an early day and see our county. He will find "100,000 or more" living in a county where, fortunately, neighbors know each other. He will find a bar of over a hundred lawyers scattered through half a dozen cities. None of them (the cities) are big. He will find immense wealth to be protected by our courts. He might even find some law business. But he would not find a judiciary scandalized by love suits, love gifts, dinners and booze from litigants and court appointees but, strange to say, almost unbelievable to big city judiciary strategists, he would find learned judges who are the result of our "elective system."

I confidently challenge a comparison of the reversals from Orange county with those from the courts in the big cities who have been admittedly chosen by the infallible bar plebiscite or some other method of selection by a few rather than the many.

But a court does not consist merely of a judge. Many other officers combine to make the "Court." And it is not only the Superior Court but ALL the courts, justice, city, municipal, police, and Superior, including all appellate courts, that make the Judicial System, and we in Orange county can assure the gentlemen of the Commonwealth Club, and all others who seek to deprive the people of their courts (not *yours*), that when it comes to the ballot box on any of the systems, open or veiled, to make the judiciary appointed by these who are elected instead of being elected by those who elect, we will see to it that you will have to overcome a 90 to 1 majority in Orange county. We have no notion in our county of first letting the politicians nominate and elect a governor and then have their governor make the judiciary a cog in his and their political machine—as is in such sordid evidence in many big cities in the United States—without making any closer suggestion.

And so I part with the misstatement of "The Mischief." As to the remedies of Proposal I of a College of (or is it *for?*) Judges, to determine just whom a governor may be permitted to appoint, to be under the control of the Regents, whom the governor appoints, and of which he is ex-officio a member, is it thus that the judiciary is to be "taken out of politics?" Ye Gods. . . . taken for a "ride" rather. How the law students would flock to U. C.

Proposition II would empower the Governors of the State Bar to compel the Governor of the State of California as to whom he may appoint as judge from the small list supplied by it. Here however the writer seems to have slipped a cog—he has not eliminated the hideous "elective system" for the Governors of the State Bar, nor the Governor of the State, and so "the people" who are the electors of the "elective system" do get a look in at least in so far as the Governor is concerned and in so far as members of the State Bar are "people." But to be consistent in this slaughter of democracy

he should have the Governors of the State Bar appointed during good behavior by this august god known as the Governor of the State, who, sad to say, is himself the product of the "absolutely broken down elective system."

Of course politics, with nice juicy judgeships having receivership appointment powers for life (or good behavior according to the big city standard) would never, never creep into the elections where only lawyers are the members of the "elective system"—Oh, No. Never! To be on a Board of Governors with power to determine whom the single governor of the state may appoint to a judgeship would, I am quite sure, make certain that the day of uncontested elections to the Board of Governors of the State Bar would be gone forever, even in our beloved Eugene Daney's district!

If Proposal II were inflicted on our admirable State Bar organization, every corporation and combination of corporations would have a candidate, or more probably. Every group of organized vice (and they do say it *is* organized in big cities), would have their "approved lists." Would trust companies, certain banks, and other illegal practitioners of law be interested in having a friend at such a Court?

And thus would all politics be eliminated from the judiciary and the judiciary far removed from the electorate—who you know are so untrustworthy and unintelligent, in the big cities. Intelligent enough to elect Commissioners, but not judges.

I am, however, most interested in Proposal III. The author coyly admits that his handiwork may be somewhat faulty; that it might not work well because it (The Judicial Council which is made the sole nominating power) would be a one man Board "since the Chief Justice 'assigns' them all." However the only objection seems to be that it "might involve the C. J. in criticism." It might be interesting to reflect just how smoothly the non-elective system would work under Proposal III wherein the Judicial Council members all (even the one judge of an inferior court) owe their positions to the sitting C. J., are clothed with the sole power to nominate judges, including the Chief Justice himself, "upon expiration of existing terms." What a plum that first nomination for C. J., will be after expiration of existing term, for note that the appointment will be for life and will carry the power to "assign" to the Judicial Council all *its* membership for *their* lives (or while they behave) and for all their lives thus absolutely control, with their "rules, regulations, requirements and certifications," the entire judiciary system of California.

Let us not overlook in Proposition III that member of the Judicial Council known as "one judge of an inferior court." How that "assignment" by the C. J. suddenly blazes with dignity. How it would be coveted when clothed with the sole nominating power of every judge of every court of record. And this might happen as in case of a tie without his vote. Visualize this "Judge of an inferior court," i.e., a justice of the peace or some police magistrate, exercising the power to (sec. c) establish "rules, regulations and requirements . . . and determinating the information necessary as to personal history, education, experience, law practice, temperament, administrative *capacity*" of candidates for nomination by him for Chief Justice of the State of California. And he shall also determine and establish "a course of instruction to qualify and fit *them* for the judiciary." Truly, it might be better to be a "Judge of an inferior court" (provided you were not inferior yourself) than to be, say, a district attorney in a big city with many, many friends who needed protection.

But the learned author of this judicial hotch-potch might, I think, be won over to his Proposition III because it would almost realize, finally, the dream and ideal of all these anti-elective-systems for the judiciary. It would effectually bar the People from even a look-in and would make two persons the supreme power as to our courts:

1. The Chief Justice—nominated by his own Judicial Council and

2. The Governor—limited in appointment to a small list of nominations made by the Judicial Council appointed, or "assigned," by the Chief Justice, and thus "a one-man board," the one man being of course the C. J., whose tenure after "expiration of present term" would be so long as he behaved. And who will determine his behavior or any act of the legislature affecting the Governor or the Chief Justice? Answer: The Chief Justice.

New Tools for Lawyers

By David Ziskind, Member of Los Angeles Bar, Professor of Law at Southwestern University

Rufus Choate, the great American advocate, was once told that good laws came by themselves through chance or fate. His reply was that you might just as soon drop the Greek alphabet on the floor and expect to pick up the Illiad as trust to chance or fate for the production of a perfect code of laws. Because we have been proceeding in our law making and law administration without plan and with ill defined purpose, we are now entangled in a morass of cumbersome procedure, ineffective penal provisions and disastrous social laws. A positive method of determining what our law should be and how our legal machinery should function is imperative. Social scientific jurisprudence offers a rational and intelligent method in social research. It is the method employed by all modern social scientists in economics, political science, sociology and psychology. It is the method that must be used in law if the administration of justice is to progress with the other fields of human understanding and social control.

The tools now used in social research are fairly well devised and tried. They are statistics, social surveys, case studies, life histories, personal interviews, questionnaires, experiments and auxiliary devices. For thorough study, they are used together; but each can be considered separately to illustrate its possibilities in the field of law.

Statistics

Though much misunderstood and still more abused, statistics can be made quite valuable. In the city of Los Angeles, in a quasi legal field, statistics are being employed with remarkable success. The police department maintains what is called a "*Modus operandi* index." When reports of crimes are made, they are recorded by an ingenious statistical machine that punches holes in cards to indicate the manner in which each crime was committed. If, for instance, a burglary occurred on the top floor of an apartment house in the afternoon when the occupants were out at work, if the burglar entered a back door by cutting through the glass portion of the door and unlatching the lock from the inside, if he took only clothing and jewelry, if he upset the furniture and emptied all cupboards and drawers, all of these facts might be recorded by the punching of holes in specific places upon a card. Later when a burglar on such a job is apprehended, a detective may desire to know of all other burglaries committed in the same fashion. The *modus operandi* cards are run through another machine and in several minutes all of the cards punched in that manner are automatically removed. Through this system, thousands of otherwise unsolved crimes are clarified, and tens of thousands of dollars worth of property restored to their true owners. The same type of machines are used in the United States Census Bureau and can be used in many court offices.

Suppose, the register of actions in the city or county clerk's office were transposed on such cards. The nature of the action, the number of parties, the amounts involved, the pleadings filed, the disposition of each motion, the judgment rendered, the effect of the execution, the record of an appeal, the time taken by everything and many other important items might be punched on the cards. Then there would be available for study a wealth of information that is now practically inaccessible. In a few hours, instead of many months, the number of mortgage foreclosures, the number of deficiency judgments on trust deeds, the number of auto accident cases or the number of receiverships and the salient facts of each could be obtained. There would be a ready means for determining the time lost on continuances or demurrers or the correlation between the amounts sued for, the judgments received and the satisfactions filed in any type of action. The possibilities are almost limitless. There are also other uses of statistics in law.

Social Surveys

A social survey is a valuable tool. It is a panoramic or photographic study of social conditions. Such a study might be made of an entire city. A record of all the observable data concerning people, houses, streets, organizations and businesses would disclose the state of housing conditions for sane building and health regulation, the distribution of rents for a reasonable spread of assessments and the movements of residences and businesses for far sighted zoning and

utility enfranchisement. Another social survey might be made of our entire court system. A record of the status, personnel and work of every court in Los Angeles would probably reveal their arbitrary and meaningless jurisdictional differences and the possibilities for further coordination. These are just slight indications of the beneficial applications of the social survey.

Case Studies

Case studies are effective from another angle. They are studies that probe through all the ramifications of a single situation. For instance, a case study might be made of a divorce case. It would involve a study of the husband, wife and children, of their past lives, of the commencement of their differences, of the course of their disagreements, of their experiences with attorneys, judges and juries and of their lives after the divorce—always with the viewpoint of determining the significance of the divorce laws with relation to their lives. Such a study would give definite and reliable data in place of the presuppositions and conjectures we indulge in now. Another case study might be made of a single court such as the small claims court. Probably twenty-five to fifty times as many cases pass through that court as pass through any other single court in our local system. Since lawyers cannot appear there, its functioning is little understood. A case study would delve into the nature of the disputes adjudicated there, the opinions and attitudes of the litigants, before, during and after trial, and the result of suits in courts and outside. That would probably enable us to answer intelligently whether we should add features of conciliation and arbitration, give installment judgments or provide an inexpensive and speedy bankruptcy proceeding for people with small debts and smaller assets. It might afford us suggestive information for the simplification of our procedure in the higher courts. The case study throws the details and implications of a social situation into excellent relief.

Life Histories

Life histories are the means for obtaining still more intimate and detailed expositions of subjects. A life history is a combination of a biography and an autobiography. It presents as much as can possibly be learned about the behavior of one human being. If such a study were made of judges and aspirants for judicial position much would be accomplished toward a wise selection of men for the bench. If life histories of the men on the bench were acquired, even in an incomplete fashion, there would be reliable information for the distribution of the judges amongst the various specialized departments in accordance with their personal fitness rather than in accordance with meaningless seniority or irrational rotation. There are some judges, competent in most work, who are positively dangerous in juvenile, probate or criminal departments. Life histories would aid in their proper allocation. Other uses for life histories can be easily seen.

Personal Interviews

Personal interviews are a common method of investigation. Unfortunately, most people labor under a notion that personal interviews are adequate in and of themselves. Social research, properly conducted, utilizes and requires a combination of all or most of the tools discussed herein. Still it is possible to accomplish some beneficial results with the personal interview alone as with the other single methods. If interviews as to their work were had with the court attaches, the deputies in the clerk's offices, the sheriffs, marshals and police, knowledge would be gained that would assist materially in the expedition of justice. Checks against misfeasance, plans for cooperation and aids toward improvement would be freely offered by thinking under-officials and upon further study the best suggestions might be adopted. Personal interviews — simple inquisitive conversations — can elicit much that is never volunteered.

Questionnaires

Questionnaires are related to personal interviews. The former are the more formal interrogatories and responses in print and writing. They have certain advantages over personal interviews. They can be distributed widely to a great number of individuals. The replies may be anonymous and confidential. The information accumulated may be kept uniform. A range of legal matters such as the court procedure in other jurisdictions and the intimate reactions of lawyers to judges may be studied with the aid of questionnaires.

Experiments

Experiments are a much less frequently used, but more profound method of social research. Experiments may be of two kinds, uncontrolled and controlled. An uncontrolled experiment is the study of a matter in

its natural setting. A controlled experiment is a study that eliminates as many extraneous factors as possible, sets up an artificial environment and purposely varies the matter under observation. Suppose that the effect of the age or sex of jurors was to be studied. In an uncontrolled experiment, the research worker would go into the regular court room, listen to cases, interrogate the witnesses and in other ways endeavor to detect the effect of the juror's age or sex upon his verdict. In a controlled experiment, the research worker would seek a community with a relatively homogeneous population to eliminate racial, political, social and economic differences amongst the veniremen. He would limit his observations to a group of cases involving similar issues. He would attempt to have the jurors segregated and then mixed according to ages or sex. Either type of experiment may be fruitful of valuable information; but the controlled experiment is generally the preferable. In many fields of law such a study is quite feasible.

Auxiliary Devices

With the above methods of social research are used a number of auxiliary devices. A tabulating machine has been explained above. Schedules, maps and charts are perhaps more readily available and are often as effective. Most attorneys have recognized that trial schedules revised the day before trial expedite court trials, maps of population show where branch courts should be established and charts of court jurisdictions reveal the logical or illogical overlapping and separation. These are but a few of a multitude of purposes to which the devices could be adapted. For instance, if maps showing the city's thoroughfares, the density of traffic, the distribution of population, the movement of building activity toward or away from the center of town and the spread of ground values were all compared with each other, the true public need or lack of need for a street opening would be clarified and the reasonableness or unreasonableness of the assessment would be made apparent. The usefulness of tools depends upon the skill of the user; still there are many in the bar and on the bench, as well as in city councils and state legislatures who could magnify their abilities through these devices.

These methods of social research—statistics, social surveys, case studies, life histories, personal interviews, questionnaires and experiments—are an elaborate equipment for the searcher of truth. They require ability, training and time. They are profound and far-reaching. Yet nothing else will suffice for intelligent treatment of legal problems. It may be admitted that some legal problems do not call for social research. A matter such as the proposed trust deed reform in California, that has practically the unanimous endorsement of the bar, needs publicity, not research. But there is perhaps no other proposed measure that has similar approval. A matter like the receivership situation in Los Angeles, that has become flagrantly notorious in the minds of an outraged public requires some hasty action to preserve public confidence in the legal system. Such matters must be investigated immediately in a more or less superficial manner. But legal scandals are relatively few. Moreover, even they should be subjected to social research after the popular wave of excitement has subsided; for only in that way can their basic causes be reached. Those problems about which there is wide-spread agreement, or about which there is a public emergency are not intended to be treated with social research. However, the great majority of legal problems are not within those groups and the majority of legal problems (unfortunately) will remain with us until a profound and thorough understanding of them is acquired.

It is, of course, apparent that most lawyers and judges have not the time or inclination to indulge in social research. It is also not very apparent how the Social Scientific viewpoint and social research can be used in the daily run of cases. Still if more judges and lawyers realized the possibilities of the Social Scientific jurisprudence, more would be eager to take advantage of them. Justice Benjamin Cardozo has explained in a fascinating and inimitable manner—in his books, "The Nature of the Judicial Process" and "The Growth of the Law""—how a judge may avail himself of Social Scientific jurisprudence and assume a position of intelligent leadership on the bench. Justice Louis D. Brandeis, before he was appointed to the United States Supreme Court, demonstrated for the first time and often thereafter, that a lawyer's brief could convince a court through social research. In defending the constitutionality of an Oregon statute providing for a ten hour work day for women, then attorney Brandeis supplemented his citations on the police power of the legislature with a lengthy report, proving that scientists, physicians and social service workers the world over conducted studies

and found that work in excess of ten hours a day had a deleterious effect upon the health of women. Justice Brandeis used a social research worker, Josephine Goldmark, to compile that report. Other lawyers might likewise employ expert social service workers as they do expert real estate appraisers, chemists and psychiatrists.

In cases involving constitutional law questions, chiefly the construction of the reasonableness of a regulation, this method can be particularly useful. In California, the problem of oil conservation is rife with such situations.

Social Research Briefs

Further, in cases involving unadjudicated points of law, there is again opportunity for social research briefs. For example. conditional sales contracts frequently provide that when the seller deems himself insecure, he may recover the property. There seem to be three different constructions placed upon that clause in this country. One is that the seller must have good faith and reasonable cause for deeming himself insecure, another is that he need have merely good faith and the third is that he may deem himself insecure arbitrarily. The California courts have not yet settled the law on that point for this state. It should be settled by asking, "What ends are to be accomplished by such law?" and, "Which construction best meets those ends?" That requires social research into commercial customs to determine which construction renders the seller the most security and the buyer the greatest freedom within the limits of profitable enterprise. Every lawyer meets now and then points of law that have not been adjudicated in his state and that have been decided in conflicting ways elsewhere. In such situations a brief including the results of social research would not only prove convincing to the court, but would also aid in the establishment of good law.

To all lawyers, judges and law-makers, whether they utilize social research in their daily labors or not, Social Scientific jurisprudence still offers a viewpoint that is essential to intelligent thought and progressive leadership in public affairs. We are engulfed in a world-wide economic depression in which the ills of our legal system are accentuated. Protests are mingled with disgust throughout our populace and profession. We need a great questioning of the purposes of all laws. We need a reconsideration of the success of our laws in achieving their purposes. We need a definite planning of laws for social ends. To aid us, we have the tools of social research.

MEMBERS DECEASED

The Bulletin prints with regret announcements of the deaths of the following who were members of the Los Angeles Bar Association:

A. S. Halsted	July 21, 1932	Paul H. McPherrin	September 19, 1932
Frank W. Forester	July 26, 1932	Benjamin W. Hahn	September 29, 1932
J. W. Swanwick	August 2, 1932	Walter R. Bacon	October 1, 1932
Wm. L. Pascoe	August 5, 1932	Kenneth Keeper	October 4, 1932
R. C. McAllaster	September 18, 1932	Charles H. King	October 5, 1932

Lawyer, Layman, and the Public Good

PRESIDENT THOMPSON OF AMERICAN BAR ASSOCIATION STRESSES PROBLEMS OF THE PROFESSION, IN WASHINGTON ADDRESS

President Guy A. Thompson, of the American Bar Association, in his address at the Washington meeting on October 12, presented some very frank and striking comments on the layman's indictment of the Bar, and the reasons therefor. THE BULLETIN prints some of his important suggestions for improvement.

"The layman's indictment of the Bar," said President Thompson, "is in three counts; and the indorsements of many witnesses appear upon the bill:

"The first count charges that justice and the law are uncertain.

"The second, that the Bar is slothful in ridding the profession of unscrupulous members.

"The third, that the legal profession does nothing to improve the administration of justice.

"The charge that justice and the law are uncertain is not without foundation, though the layman is prone to magnify the seriousness of this offense. Judgment here is formed in the main by the public press. The layman should bear in mind that court proceedings featured in the newspapers are usually sensational cases—the exceptional ones which possess news value. The multitude of ordinary cases which are being daily disposed of in our courts of justice receive scant notice in the columns of the press. It is true that the law is uncertain; it will ever be so. It is the glory of the common law that its principles adapt themselves to the imperative demands of social change. 'Law must be static, and yet it cannot stand still,' says Dean Pound. Or, as Mr. Justice Cardozo charmingly phrased it: 'The inn that shelters for the night is not the journey's end. The law, like the traveler, must be ready for the morrow. It must have a principle of growth.' The needless complexity and uncertainty that afflict our jurisprudence are, in fact, being successfully attacked by the American Law Institute. This great organization, composed of the most learned and the most scholarly lawyers in the land, for the past nine years has been engaged in the task of restating the common law to the end that the law may be clarified, simplified, and better adapted to modern social needs and conditions. We await with eagerness the appearance within the next few weeks of its restatement, now completed, of the law of Contracts.

Bar is Slothful

"To the layman's second complaint, that the Bar is slothful in ridding the profession of unscrupulous members, it must be conceded that the legal profession includes some whose conduct violates the cannons of ethics, some who are recreant to their trusts, some who are unscrupulous and dishonest, some who 'crook the pregnant hinges of the knee Where thrift may follow fawning.' But these men do not represent or typify the profession; they dishonor it. They are, after all, exceptions. As a body, the lawyers of this country unquestionably act on high principles of honor and integrity, and conscientiously and faithfully discharge the duties that they owe their clients.

Difficult to Discipline

"It is difficult for the Bar to discipline or disbar. The necessary proof is often hard, sometimes impossible, to obtain, though suspicion of wrongdoing be 'strong as proof of Holy Writ.' Beyond this barrier, a more difficult one still is the fact that the Bars in most of the states are not self-governing bodies. Indifferent to the inherent power of the courts, the state legislatures generally have assumed to prescribe by statute the causes of discipline and disbarment, as well as the procedure. In many of the states these legislative enactments by their terms so circumscribe and restrict the power of the Bar as to make it extremely difficult, and often impossible, under them to disbar or to discipline recalcitrant lawyers. Generally, the lawyer who foments litigation, the ambulance chaser who, vulture-like appears upon the scene of tragedy while the victim still writhes in pain, cannot be disbarred under

these statutes for these offenses. Indeed, in some states, if a lawyer's offense rises to the dignity of a felony, the legislature has prescribed that he shall not be disbarred until he is first convicted in court of the felony with which he is charged. Laymen generally do not understand this situation. Until the Bar is given the right to act, it cannot in justice be censured because it does not act. It cannot justly be condemned for failure to do what it has not been given the power to do.

Work to Improve Justice

"To the layman's third complaint, namely, that the legal profession does nothing to improve the administration of justice, we enter emphatic denial, for this count is without foundation. Laymen in general have, I think, little conception of the lawyers' constant efforts to improve the administration of justice. Reference has already been made to the Herculean task now being performed by the American Law Institute. Law school faculties and such institutions as the Johns Hopkins Institute of Law and the American Judicature Society are rendering service of incalculable value. The American Bar Association has, as noted, a membership of 30,000, among whom are the foremost lawyers of the country drawn from every state in the union. Not only in point of numbers but in the character and ability of its members it is undoubtedly the greatest organization of lawyers in the world today. It expends approximately $200,000 annually, voluntarily contributed by its members, in its efforts to improve the administration of justice. Through their respective committees, and with further large sums contributed by their members, the 1300 state and local bar associations are supplementing these efforts. Legal education, judicial procedure, criminal law and criminal procedure, legal aid, air law, the law of public utilities, uniform state laws where desirable, anti-trust laws, laws relating to the exploitation of our natural resources, tax laws, bankruptcy law, patent, trade-mark and copyright law, admiralty law, international law, —these and many other juristic and social fields having intimate relation to the prosperity, the happiness, and the liberties of our countrymen, are receiving earnest and constant attention at the hands of members of our profession.

Unselfish Service

"It should be borne in mind also that the lawyers who are prosecuting these manifold activities are devoting their energies and time to this nation-wide and never-ceasing task of improving the administration of justice, freely and voluntarily, and without hope or expectation of the slightest personal reward, but solely in response to a sense of public obligation. What trade, class, or calling, I ask, devotes itself so consistently or with greater self-sacrifice to the improvement of conditions and to the protection of our institutions from the assaults both of the vicious and of the well-meaning but misinformed?

"It is pertinent to inquire what the layman is doing to improve the administration of justice. Is he not prone to regard this as exclusively the lawyer's task? If so, he is greatly in error. The law is the layman's law and the courts are his courts. It is true that because of his experience and technical knowledge the lawyer should take the initiative; and he is doing so. But the problem is the layman's as well as the lawyer's, and the lawyer cannot possibly solve it without the cooperation of the layman.

"It would be audacious indeed to attempt to catalogue all that should be done. A few things, however, can be suggested which, if done, assuredly would work vast improvement in the administration of justice.

"First: The Bar in every state should have the power of self-government.

* * *

"Second: There should be in every state a Judicial Council with an official status.

* * *

"Third: The courts should be self-governing. They should have restored to them the power to prescribe rules of practice and procedure.

* * *

"Fourth: The educational standards of this Association should be adopted in all the states.

* * *

"Fifth: The layman must do his part. He must do his part as a voter. Even though the law should establish the most perfect machinery on earth for the administration of justice, it will not function effectively unless it is placed in the hands of competent and honest men. This cannot be done unless the layman is keenly alert to his responsibilities as a citizen and is constantly active in their discharge.

Every elected judge upon a state Bench who administers the law, every elected state prosecuting official who prosecutes offenders against the law, and every member of a legislature who makes or fails to make the law, owes his position to the laymen of the state. The lawyer in the legislature who opposes these reforms does not reflect either the judgment or the purposes of the Bar; rather responsibility for his opposition must be charged against the laymen who elected him.

The Layman's Duty

"The layman must do his part as juror. The constitutional guaranty of the right of trial by jury is in its essence denied if the jury be not fairly representative of our citizenship. A trial before a jury composed wholly of laborers, of small shop-keepers, of clerks, or of any particular class, is not a fair jury trial. The jury trial to which every man and every corporation is entitled is a trial before twelve men who fairly represent a cross-section of the community. The layman who evades jury service in time of peace is as much a slacker in the performance of his duty as is the man who evades service of his country in time of war.

"Finally, the layman must do his part in cooperating with the Bar to bring about the reforms that I have mentioned, namely, the self-governing Bar, the Judicial Council, the self-governing Court, and, meanwhile, the raising of the educational standards for admission to the Bar. The lawyers alone are powerless to institute these improvements; and it is only by and with the cooperation of laymen and lawyers that they can be realized.

"To the laymen of the country I would issue the ancient call: 'Come over into Macedonia and help us!'"

SIX ATTORNEYS ON COMMITTEE

Six local attorneys are included among the 45 outstanding men and women recently appointed as members of Community Chest's budget committee, which will study the needs of, and determine the amounts to be allocated to, the Chest's 105 member agencies during the ensuing year, according to announcement of President Joseph Scott.

They are Joseph P. Loeb, Edward D. Lyman, Henry O. Wheeler, George W. Prince, John C. MacFarland and C. Gardner Bullis. John Treanor, widely-known Southland industrialist, is chairman of the committee.

Because of the changed economic conditions, a complete revamping of all agency budgets has been inaugurated, President Scott announced. He added that while values of preventive work will be preserved insofar as possible, chief emphasis is being placed on maintaining every possible rigid economy in administration throughout the agencies to the end that all but the most essential programs be restricted or eliminated.

This course, he explained, will result in making available the maximum amount for meeting the tremendous problem of emergency relief brought about by unemployment.

THE CROWDED BAR

It was reported not long ago that there were four times as many students in law schools as are needed to keep the bar of the entire country at its present sufficient numbers. Without quibbling over computations it is evident that the situation spells a lot of misery for a lot of people—perhaps for all the people of the nation. Mr. Paul O'Donnell, of the Chicago bar, came to the conclusion that efforts to reduce the number of students might be made effectual. That would be the correct way of averting a calamity. He believed that if the facts were widely disseminated there would be fewer young men and women who would elect for competition in a bar already crowded. (*Journal of the American Judicature Society*)

BAR ACTIVITY IN LOS ANGELES

(From *Journal of the American Judicature Society*)

The membership of the regular and special committees of the Los Angeles Bar Association now numbers four hundred and forty-six. A number of the committees hold weekly meetings and some meet twice a week. The Association publishes an excellent monthly journal.

A Pirate Bold

By Leon R. Yankwich, J.D., LL.D., Judge of the Superior Court, Los Angeles County

Excepting perhaps Robin Hood, there is no outlaw character in English history, around whom so many legends have grown up, as Captain William Kidd, the pirate and privateer. Out of the official record of the trial (as reported in 15 Howell's State Trials, pages 123-234), Judge Yankwich retells, with appropriate comments, the story of his trial for murder, in 1701, at Old Bailey. The article is the second of a series of "Stories From Old Court Records." which will appear from time to time.

William Kidd, the pirate and privateer, has almost become a legend. Few people seem to know that the record of his trials for murder and piracy exist,—from which we can find out the type of man he was. Kidd's biographers give the date of his birth as 1645. He was executed in 1701. He served in the war against the French in the West Indies. In 1696, he was commissioned by the King to arrest pirates and to engage in reprisals against the French. Instead, upon reaching Madagascar, in 1697, in his privately fitted-out ship called "Adventure," he joined the pirates and began capturing trading vessels. Upon his return to England, he was arrested in July, 1699, and in May, 1701, was tried for murder and piracy. The piracy and robbery charged against him and of which he was convicted occurred on the ship known as the "Queda Merchant."

The murder charged against him was that of William Moore, one of his gunners on the "Adventure," whom he struck over the head on October 30, 1697, with a wooden bucket, bound with iron hoops. The indictment set out that the bucket was of the value of eight-pence.

The vessel was on the coast of Malabar. Moore died the following day. Kidd was arraigned upon the indictment on May 8, 1701, and pleaded not guilty. The testimony was as follows:

Joseph Palmer testified:

About a fortnight before this accident fell out, Captain Kidd met with a ship on that coast that was called The Loyal Captain. And about a fortnight after this, the gunner, William Moore, was grinding a chissel aboard the Adventure, on the high sea near the coast of Malabar, in the East Indies. Captain Kidd came and walked on the deck, and walks by this Moore; and when he came to him, says, "Which way could you have put me in a way to take this ship, and been clear?" "Sir," says William Moore, "I never spoke such a word, nor ever thought such a thing." Upon which Captain Kidd called him a "lousy dog." And says William Moore, "If I am a lousy dog you have made me so; you have brought me to ruin, and many more." Upon his saying this, says Captain Kidd, "Have I ruined you, ye dog?" and took a bucket bound with iron hoops, and struck him on the right side of the head, of which the next day he died. He was let down the gun-room; and the gunner said, "Farewell, farewell, captain Kidd has given me my last." And Capt. Kidd stood on the deck, and said, "You're a villain."

This was Robert Bradinham's version of the murder:

I was surgeon of the ship whereof Captain Kidd was master. I was sent for to his assistance after he was wounded, and I came to him, and asked him how he did? He said, "He was a dead man; capt. Kidd had given him his last blow." And I was by the gun-room, and captain Kidd was there, and I heard Moore say, "Farewell, farewell, captain Kidd has given me my last blow;" and captain Kidd, when he heard it said, "Damn him, he is a villain." Moore died the next day. The wound was but small, the skull was fractured.

Sometime after this, about two months, by the coast of Malabar, captain Kidd said, "I do not care so much for the death of my gunner, as for other passages of my voyage; for I have good friends in England that will bring me off for that."

Kidd's Defense

Kidd having intimated that his defense would be that there was mutiny on the ship, Palmer was recalled and testified that there was no mutiny on that day. Called to make his defense, Kidd stated:

> My lord, I will tell you what the case was: I was coming up within a league of the Dutchman, and some of my men were making a mutiny about taking her, and my gunner told the people he could put the captain in a way to take the ship, and be safe. Says I, How will you do that? The gunner answered, We will get the captain and men aboard. And what then? We will go aboard the ship, and plunder her, and we will have it under their hands that we did not take her. Says I, This is Judas like, I dare not do such a thing. Says he, We may do it, we are beggars already. Why, says I, may we take this ship because we are poor? Upon that a mutiny arose, so I took up a bucket, and just throwed it at him, and said, you are a rogue to make such a motion. This I can prove, my lord.

But his witnesses who, by the way, were men charged jointly with him of piracy, did not help him much.

Abel Owens testified:

> I was in the cook-room, and hearing some difference on the deck, I came out and the gunner was grinding a chisel on the grindstone, and the captain and he had some words, and the gunner said to the captain, You have brought us to ruin and we are desolate. And, says he, Have I brought you to ruin? I have not brought you to ruin, I have not done an ill thing to ruin you; you are a saucy fellow to give me these words. And then he took up the bucket, and did give him the blow.

Owens stated that there was mutiny a month before, but none on the day Kidd struck Moore. Kidd did not have better luck with his next witness, his servant, whose name was Richard Barlicorn, nor with Hugh Parrott. Both talked of a mutiny the month before, but neither had heard of any mutiny on the day of the murder, or of any quarrel with Moore. Kidd was discouraged, as is shown by the following verbatim report of what occurred after:

> Just. Powel. Capt. Kidd, have you any more to ask him; or have you any more witnesses to call?
>
> Kidd. I could call all of them to testify the same thing; but I will not trouble you to call any more.
>
> L. C. B. Ward. Have you any more to say for yourself?
>
> Kidd. I have no more to say, but I had all the provocation in the world given me; I had no design to kill him, I had no malice or spleen against him.
>
> L. C. B. Ward. That must be left to the jury to consider the evidence that has been given; you make out no such matter.
>
> Juryman. My lord, I desire the prisoner may give an account, whether he did do any thing in order to his cure.
>
> L. C. B. Ward. He is to be tried according to law; the King's evidence hath been heard, and he has the liberty to produce what evidence he can for himself; will you put him to produce more evidence than he can? If he has any more to say, it will be his interest to say what he can; the court is willing to hear him as long as he hath any thing to offer for himself, either upon that account, or any thing else.
>
> Kidd. It was not designedly done, but in my passion, for which I am heartily sorry.

The summing-up by Lord Chief Baron Ward was not very favorable to Kidd. Kidd saw this. So, at the last moment, he tried to speak of his good reputation and of his service to the King. The following occurred:

> Kidd. My lord, I have witnesses to produce for my reputation.
>
> L. C. B. Ward. Mr. Kidd, we gave you time to make your defence: why did not you produce them? You were asked more than once if you had any more to say; and you said you would call no more witnesses.
>
> Kidd. I can prove what service I have done for the King.
>
> L. C. B. Ward. You should have spoken sooner: but what would that help in this case of murder? You said you had no more to say before I began.

The jury, after an hour's deliberation, found Kidd guilty. He and his seamen, including his witnesses, Barlicorn, Owens and Parrott, were then tried for robbery and piracy. Barlicorn was acquitted. Owens and Parrott were found guilty. When sentence of death was pronounced, Kidd, as he heard the last words "and there be severally hanged by your necks until you are dead. And the Lord have mercy on your souls," complained:

> My lord, it is a very hard sentence. Fo

my part, I am the innocentest person of them all, only I have been sworn against by perjured persons.

Kidd was executed on May 23, 1701.

Thus passed this colorful personality around whom almost as many legends have grown as around Robin Hood.

From the cold print of the trial record, Kidd emerges stripped of romance, and appears as a violent-tempered, mercenary mariner, who was lured by the easy profits of piracy. There is just as little reason to romanticize over him, because of his war record or the romance of his career, as over some of the William Kidds of today, engaged in piracy of a different character.

Yet piracy has always had a romantic halo. And little boys will continue to dream about, and try to emulate, in their play, the pirate bold, Captain William Kidd.

The Trust Company Problem

PHILADELPHIA BAR AUTHORIZES COURT ACTION

(From *Detroit Bar Quarterly*)

A valuable and significant contribution to the consideration of the trust company problem is the report recently submitted to Hon. George Wharton Pepper, Chancellor of the Philadelphia Bar Association, by a special Committee. The Philadelphia Committee has proceeded along a course similar to the one followed by our Committee, holding joint meetings for "frank and cordial discussion of the proper relationship which should exist between members of the Bar and the banks and trust companies, as well as their respective duties and functions." Drafts of agreement were made and revised from time to time. Quoting from the report:

"The final draft of agreement formulated by your Committee and submitted to the Committee of the Fiduciaries Association * * * contains all the concessions which your Committee felt it could make. The keystone of its structure is the sound and fundamental position, that corporations should not and must not, directly or indirectly, either by officers, agents, or employees or by attorneys employed or retained by them, practice law. Your Committee could see no distinction in principle between general counsel who has his office in an adjoining room or suite or even on another floor or in another building, and a lawyer who is in the regular salaried employ of the bank, trust company or other corporation. Both owe fealty and allegiance to the corporation. This is likewise a matter of public concern, for upon the authority of the ages, it can safely be declared that no man can serve two masters. Pertinent is this extract from the joint statement of the New York County Lawyers' Association and Bar Association of the City of New York, dated May 11, 1931, to-wit: 'A lawyer should not advise a prospective testator or donor as to the making of a will or trust if the lawyer already occupies a relationship to a proposed or potential fiduciary which might embarrass him in advising fully and freely as to all matters involved in the formation and terms of such will or trust.' And the American Bar Association at this year's session in Atlantic City adopted the report of its Committee on Unauthorized Practice of the Law, which contained this paragraph:

"'The committee is of the unanimous opinion that these unauthorized practices would largely cease if it were not for the participation therein of members of the Bar.

Committee Cites Five Remedies

"After some delay the Fiduciaries Committee declined to enter into your Committee's agreement, and offered a substitute * * * The differences between the two agreements being so fundamental and irreconcilable, your Committee concluded, with deep regret, that further negotiations and conferences were useless, and that it should make its report and submit its recommendations to the Association for action at a special meeting called for that purpose. * * *

"The Committee believes that appropriate proceedings should be taken against those, corporate and lay, who persist in unlawful practices. It has considered five remedies, to-wit: (1) prosecution for violation of the statute; (2) contempt proceedings; (3) suits in equity to enjoin lay or corporate illegal practice of law; (4) quo warranto; (5) rules of Court."

Why Young Men Study Law

SURVEY OF EMPLOYMENT CONDITIONS AMONG YOUNG ATTORNEYS IN CALIFORNIA

At the direction of the Board of Governors the Research Secretary of the State Bar sent out a questionnaire to all attorneys who had been admitted by examination during 1929, 1930 and 1931, seeking to get facts regarding employment conditions among young lawyers in this state. The questionnaire was not sent to those admitted on motion. The report presented to the recent State Bar Convention at San Diego by J. H. Brenner, contains material that will be read with interest by attorneys throughout the state.

Only a brief summary of the report can be printed here. A detailed analysis was filed with the State Bar.

"What influenced you in making your decision to study law?

"Did you graduate from a law school, and if so, where?

"If you were employed at the time you were admitted, indicate the nature of the position.

"Did you have any business or social connection with any of your employers which made it easier for you to obtain such employment?

"Did you derive from the practice of law sufficient income to support yourself and dependents during the first, second, and third years of your practice?

"What was your net professional income during the first year of practice?"

These and other questions were put to the young lawyers of California in the questionnaire which was intended to get the facts as to the conditions of employment in California.

The questionnaire was mailed to 1,466 lawyers, all who were admitted by examination in 1929, 1930 and 1931. A total of 1,182 answers were returned—an 80 per cent response.

"The results," says the report on the survey, "are to be passed on to the public and it is hoped that the information will prove helpful to prospective law students."

The answers were returned to the State Bar in the same manner as a secret ballot, as the State Bar was desirous of having the benefit of the frankest suggestions of young attorneys regarding present conditions.

Why They Studied Law

"The survey seems to indicate," continues the report, "that a large number began the study of law because they believed that a formal fulfillment of the statutory requirements for admission would assure them wealth and entitle them to a life of ease and influence. Many apparently studied law because some misguided friend had painted an inviting picture that was entirely devoid of facts.

"In answering the question, 'Where did you study law?' 953 indicated that they had studied in one law school; 112 had studied in two or more schools. Only 43 of the 1,182 indicated that they done all of their studying in a law office, or by correspondence or private study. Law schools in a majority of the forty-eight states contributed their products to this three year group. Harvard with 59 leads the list of non-resident schools, and the University of Michigan is second with 20.

"Six per cent of the group commenced the study of law prior to 1922. The earliest date indicated by anyone in the group is 1893. 896 began their study between 1924 and 1928.

"The third question was, 'What influenced you in making your decision to study law?' 468 of the 1,035 who answered this said that they were prompted by 'Natural desire and ambition.' 157 indicated that the fact that 'a parent or near relative was an attorney' had been the deciding factor. An additional 65 had been influenced by their parents. Others indicated that their decisions were based on such reasons as: 'advice of attorneys,' 'preference of finances,' 'husband studying law.' Ninety-nine gave 'financial advantages of the profession' as their reason; 103, 'the advantages of a knowledge of law in various commercial fields'; 43, 'social advantages'; 37, 'interest in forensics'; 55, 'desire for education.'

Wide Variety of Reasons

"Replies from others indicated a heavy strain of altruism, such as: 'desired justice for everybody'; 'desired to see if practice could be improved'; 'observation of lack of education of many attorneys'; and, more specifically, 'a desire to better conditions of the Bar in California!' Other decisions were evidently not so specific, but had followed the line of least resistance; for example, 'choice after trying two other professions'; 'lack of resources for study of other professions'; 'short period of study required in comparison to other professions.' Another had fortified himself against all censure and judgment in the profession because, after proving to himself that he lacked ability in other lines, he came upon what he considered a happy discovery that 'lack of ability in a lawyer needs no excuse.' The revenge motive entered into one answer, 'because of loss of property through a dishonest lawyer.'

"The next question was, 'Did you graduate from a law school, and if so, when?' 1,063 of those who answered stated that they were graduates of a law school. The majority graduated between the years 1928 and 1931, but some graduated as far back as 1898. 87 of the group had been admitted in other states before taking the examination in California. Some of the admissions elsewhere date as far back as 1899. Colorado and Nebraska, with eight each, lead the list of states that had admitted these attorneys before they came to California.

Classification of Previous Work

"In answer to the question, 'If you were employed at the time you were admitted to practice, please indicate the nature of the position,' fifty-two different classifications were mentioned. 312 were employed in legal work or as law clerks. The next largest number were doing insurance work. This group was closely followed by those engaged in banking. Of those who answered this question 296 were still holding their pre-admission positions at the time of the survey. Many others continued to hold these positions for a considerable time after admission.

"Three hundred eighty-six were employed in a position requiring legal training at the time of admission or were able to obtain such a position immediately after admission. There were many others who had to wait a long time before getting a position requiring legal training, and at the time of the survey 66 had not yet obtained such a position.

"Five hundred fifty-five stated that since their admisison they had been engaged in practice as employees in large law offices, while 564 answered that they were not so employed. At the time of the survey 67 were employed in public offices. Of this group, 20 were in district attorneys' offices, nine were with city attorneys, 4 in corporation departments, and 34 were scattered through twenty or more other public offices.

"It appears that many young attorneys, while employed on a salary, are permitted to handle their own clients' cases and receive all or part of the fees. 222 were permitted to retain all of these fees, 74 could retain 50 per cent, and 15 could retain 33⅓ per cent, while 9 were required to turn over all fees to their employers. Between the extremes there is a wide variety of arrangements for dividing the fee with the employer and the employee.

Business or Social Connections

"To the question, 'Did you have any business or social connection with any of your employers which made it easier for you to obtain such employment?' 191 answered that they had social connections and 84 had business connections.

"Five hundred seventy-seven had derived 100 per cent of their income from practice since admission, while 110 had received no income from this source, and 315 had been unable to derive more than 50 per cent of their income from the practice of law.

"One of the questions which seems to have a very important bearing on the results of the curvey was, 'Did you derive from the practice of law sufficient income to support yourself and dependents during the first, the second, and the third year of practice?' During the first year 504, or 5[illegible] per cent, had been unable to earn enough from their practice to support themselves and dependents; in the second year, 37 per cent were not making sufficient income; and in the third year, 33 per cent. Should not men and women who are considering the law as their life work know these facts before they make their final decision?

"One hundred fifty-six stated that their present income as an attorney was more than their annual income prior to admission, whereas 250 stated that it was less.

Law Earnings

"Another question was, 'What was your net professional income during the first year of practice?' The average income of all who answered was $978 for the year, but the

is a high average because of the fact that a few individual attorneys had incomes as great as $10,000. However, in 71 per cent of the group not one had earned more than $1,000, and over one hundred reported their first year's income as $200 or less.

"In the second year the average income increased to $1,602, but again there were a few who earned as high as $15,000, while 42 per cent of the group earned only $1,000 each, or less.

"In the third year 42 per cent were still unable to report an income of more than $1,000, although the average had increased to $2,078. Only five had a net income of over $5,000. A small number at the top seem to do well, but what about the 42 per cent who are unable to earn more than $1,000 each even in the third year of practice?

Advise Work in Law Office

In the answers to the question, "How long, in your opinion, should one work in a law office before he is qualified to practice alone?", the large majority advised two or more years if the attorney desired to ultimately practice alone in a large city, and one year, or more, if he expected to practice in the country.

Suggestions for Betterment

"In order to get the views of each individual the following question was asked: 'Please make any suggestions that you think might aid in bettering the employment conditions for those recently admitted, and indicate your frank opinion concerning the general situation as affecting those admitted in the future.' An effort was made to classify the suggestions, and some of them follow.

"One hundred nineteen thought the State Bar should provide machinery for securing employment for young attorneys. In this connection you may be interested to know that the State Bar did actually try to act as an employment agency and clearing house for young attorneys, and gave publicity to the service. Large numbers of young attorneys registered, but so far as I know only one firm ever made inquiry for an attorney through this service, and in that case no one of those registered was chosen.

"One hundred eighty-five mentioned that competition by lay agencies practicing law was a factor in the employment situation.

"One hundred twelve thought business or social connections were essential for one who was starting the practice of law, while two stated they did not think these connections should be necessary.

"Two hundred eighty-eight suggested higher educational standards for admission to practice; six were not in favor of higher standards. 71 favored higher ethical standards, while one person disagreed. 81 suggested higher standards for admission on motion, many of them recommending that such admissions be entirely denied.

"Limiting the number admitted to practice was mentioned by 138; 123 favored limitation, 14 opposed it, and one favored limiting admissions but not the number of law students.

"One hundred eighteen advocated an apprenticeship as being helpful; two did not favor it.

"One man suggested that older attorneys should take more vacations, and another, who seems to be both practical and politically minded, said that it would be best to take up brick laying and vote the Democratic ticket!

Bar Overcrowded

"The question whether or not in the attorneys' opinion the Bar of California is overcrowded was not included in the survey, but it is interesting to note that of those who made suggestions or commented on present conditions the largest number, 414 or 44 per cent, suggested that overcrowding is an important factor. Twenty-three attorneys stated affirmatively that they did not think the bar was overcrowded, but of this group seven had started practice in established offices of relatives or good friends and several others held salaried positions with lay agencies.

"If it is a fact, as has been suggested in other states, that the entire legal profession is seriously overcrowded, then this State Bar survey, if studied in conjunction with other available data, may be enlightening as to the conditions in California.

"In 1900 there were 114,703 attorneys in the United States, and in 1910 the number had increased by only one. In California during the same period the number increased from 4,278 to 4,908 or 14 per cent. From 1910 to 1920 the number of attorneys in the United States increased from 114,704 to 122,519 or 7 per cent, whereas in California the number increased 30 per cent. In the next decade, from 1920 to 1930, the increase in the United States was 31 per cent and in California 50 per cent. If the profession in the United States as a whole

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Proposed Constitutional Amendment No. 9

CREATES STATE PUBLIC SCHOOL EQUALIZATION FUND. DIVESTS COUNTIES AND DISTRICTS OF SHARE IN ADMINISTRATION OF EDUCATIONAL FACILITIES. INCLUDES INCOME TAX AND SALES TAX

By Steadman G. Smith, of the Los Angeles Bar

On November 8, the voters of the State of California will be required to determine whether or not they will approve proposed Constitutional Amendment No. 9. It provides generally as follows:

Section 6 of Article 9 of the State Constitution under this amendment will state that the public school system shall include two general classifications of schools, i. e. elementary and secondary schools. The Legislature shall add to the State school fund an amount not less than $30 per pupil in average daily attendance in elementary schools and shall provide a State high-school fund from the revenue of the State for the support of secondary schools in an amount of not less than $30 per pupil in average daily attendance.

In addition to the funds as previously provided, the amendment creates a State public school equalization fund for which the Legislature is required to provide from the revenues of the State an amount which shall be not less than $40 per pupil in average daily attendance in elementary school districts, plus not less than $70 per pupil in average daily attendance in high-school districts of the State. This fund shall be apportioned as the Legislature shall provide in order to equalize education opportunities and tax burdens among the various Counties and Districts.

The Legislature is further required to provide for a tax upon the net incomes of Individuals, Estates and Trusts, as well as a selective sales tax on commodities to be designated by the Legislature in addition to other State revenues. Under this amendment each County and City and County, may levy taxes for the support of public elementary and secondary schools. The State Legislature is also required to provide for and levy school district taxes by the Board of Supervisors of each County or City and County for the support of public schools sufficient to provide for the school district, such amounts as may be required by the district budget. Seventy-five per cent of the funds provided by the State for elementary school purposes and 70 per cent of the money so provided for secondary school purposes shall be applied exclusively by the Districts receiving such funds in payment of school teachers' salaries, provided that any District expending annually for teachers' salaries, 70 per cent of the total current expenditures of such District after deducting certain expenses for pupil transportation, may expend any funds received from the State for maintenance purposes. It will be observed that the legal tax requirement for school purposes has increased in the sum of $10 in both high and elementary schools. This is the most outstanding point of conflict between the constitutional provision as it now stands and the proposed amendment, exclusive of such additions as are hereinafter considered.

Changes Theory of Taxation

A careful survey of this proposed amendment will show that the theory of taxation as adopted by this State in 1911 will be radically altered by the adoption of this amendment. In other words, the final result will be to divest the local Counties and Districts of their present large share in administration of educational facilities and distribution of school funds, concentrating this authority in the hands of the State Officials. The amendment is brief and vests large discretionary powers in the Legislature. In addition to the tax system already provided for in this State, the amendment includes an income tax and sales tax. The details of both of which taxes shall be determined upon by the State Legislature.

The arguments for and against income taxes and sales taxes are too well known to the members of this Bar for further consideration in this brief article. Suffice it to say, however, that this amendment fails to provide for any exemptions to the income tax and does not attempt to specify the articles upon which the sales tax shall be levied.

Furthermore both these taxes would continually be fluctuating and subject to change by each biennial session of the Legislature. The income and sales taxes would further serve to burden individuals, estates and trusts, which are at this time securing an income, as well as impose a burden upon

the free exchange of commodities and at the same time relieving the imposition of any levy upon vacant lot owners, etc.

Legislative Powers

A fundamental study of the Legislative powers and division of governmental authority into our three branches would be enlightening at this time. We are forced to recall that the acts of legislatures are very largely beyond control of the people, except by direct ballot. Within the scope of its authority the State legislature possesses semi-autocratic powers. The judicial department of the Government has no power to revise any action of the legislature which it might take in pursuance of the power committed exclusively to it by the constitution. *Allen vs. Leland* 164 Cal. 56; *French vs. Senate* 146 Cal. 604.

Any contrary holding would be an attempt on the part of the judiciary to exercise legislature functions, which it is expressly prohibited from doing. (See also *Fay vs. Steamer-New World*) 1 Cal. 348. Furthermore, we might experience the same situation which existed in the State of Illinois when that State Legislature refused to re-apportion its legislative districts in accordance with the federal census.

For mandamus does not lie to avoid the effect of non-action in a matter committed exclusively of legislative discretion. *Myers vs. English* 9 Cal. 341. This case states the evident fact that a legislative body may well determine that their proper discretion has been exercised in such non-action and states the position in the following quotation:

"It is within the legitimate power of the judiciary to declare the action of the Legislature unconstitutional, where that action exceeds the limits of the supreme law; but the Courts have no means, and no power, to void the effects of non-action. The Legislature being the creative element in the system, its action cannot be quickened by the other departments. Therefore, when the Legislature fails to make an appropriation, we cannot remedy that evil. It is a discretion specially confided by the Constitution to the body possessing the power of taxation. There may arise exigencies, in the progress of human affairs, when the first moneys in the treasury would be required for more pressing emergencies, and when it would be absolutely necessary to delay the ordinary appropriations for salaries. We must trust to the good faith and integrity of all the departments. Power must be placed somewhere, and confidence reposed in someone."

Will Not Decrease Taxes

Obviously mandamus cannot lie when any officer or body is vested with discretion in the performance of its duties.

Of great interest to the voters is the question — "will this amendment decrease taxes." The next to the last paragraph of the amendment appears to give the conclusive negative answer to this question. Observe it provides that a certain percentage of the funds provided by the State shall be applied exclusively to the payment of teachers' salaries, provided that any District which annually expends for teachers' salaries, 70 per cent of its total current expenditures after certain deductions may spend any funds received from the State for maintenance purposes. In other words, the effect of this provision will be to cause poorer school districts and Counties which have failed to maintain their schools in modern condition to expend large sums for teachers' salaries and drain the funds received from the State for maintenance purposes.

Obviously the assessment of an income and sales tax will prove to be insufficient under this condition and a general ad valorem levy will be required. In the event such a State tax on common property is levied, it has been actually estimated that the Counties of San Francisco, Los Angeles, Alameda, Orange and Ventura will be required to pay 78 per cent of the total State Taxes. The defect in this particular part of the amendment lies in the fact that while ample powers of taxation are vested in the legislature, no control is retained over the distribution of the funds realized from such taxation. Counties rich and poor would have no assurance that the moneys received from taxing properties within their boundaries would be returned to them in any reasonable proportion.

Autocratic Powers

It is enlightening to observe also the autocratic powers possessed by the State legislature in the apportionment of benefits to be derived from the levy of a tax. In fact it is held that the legislature may provide for a general tax, if it appears that some benefit will accrue to the property subject thereto, (*Anaheim Sugar Co. vs. County of Orange*, 181 Cal. 212. *In re: Madera Irrigation District*, 92 Cal. 296). In fact, the only restriction in addition to

some benefit appears to be that taxes are supposed to be based on benefit received by the tax payer. Furthermore, the power to tax and to apportion the funds received from such taxation are inseparable and the power to apportion the burden is vested exclusively in the Legislature unless restrained by some constitutional provision. *McHenry vs. Downer* 116 Cal. 20; *Wulzen vs. Board of Supervisors,* 101 Cal. 15; *People vs. Seymour,* 16 Cal. 332. *In re: Madera Irrigation District supra; Emery vs. San Francisco Gas Company,* 28 Cal. 345.

The last cited case is a leading one in California in this connection and often cited by our local courts. The situation is particularly well stated in a quotation from that case as given by Justice Napton, as follows:

> "In every form of taxation, whether general or local, it is certainly desirable and proper that the burden should be distributed as near as may be in proportion to the benefit derived; and constitutional injunctions and restrictions, where they have been attempted on this subject at all, are designed to promote this end. But where there is an absence of constitutional provisions it is not in the power of the Courts to enforce any fancied scheme of equality seeming to them more just than the one adopted by the Legislature. The latter department of government is wisely intrusted with the entire control of this subject; and if practical injustice is done, the remedy is in the hands of the people. Equality of taxation may, however, be regarded as one of those utopian visions which neither philosopher nor legislator has ever yet realized. Approximation may be arrived at, and ought to be, and to a reasonable extent attained; but such is the infinite variety and complexity which human transactions assume ,that it surpasses the ingenuity of the political economist and practical politician to forsee exactly where and how the pressure of a proposed tax will fall."

In fact, the powers of the State Legislature appear to be almost unlimited in this respect for it possesses authority itself to declare the entire State to be benefited by the tax and authorize the burden to be born by general public levy or to assess the burden in a limited region, particularly benefited and apportion the burden on ad valorem or per front foot basis. *In re: Madera Irrigation District supra; People vs. Alameda, etc.,* 26 Cal. 641.

Legislative Question

Furthermore, a division of the State into territorial subdivisions for taxing purposes is purely a legislative question. *Anaheim Sugar Co. vs. County of Orange supra; People vs. Central Pacific Railroad Co.* 43 Cal. 398; *Creighton vs. Manson* 27 Cal. 613.

Lack of Consideration

The position taken in this article may appear to be in one respect conflicting. The amendment has been criticized for setting a definite standard of the proportion which should be devoted to teachers' salaries. In this and other respects too much detail appears. On the other hand, the amendment has been criticized on the ground that it does not restrict the legislative authority or guide the legislative action with respect to apportionment of benefits. Both are true and result from an apparent lack of due consideration for this vital problem. Deep consideration of these complex problems should present to the people an amendment to our constitution in keeping with their needs and more productive modern tax relief.

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was overcrowded in 1930 you can draw your own conclusions as to California.

What May We Expect?

"What about the legal profession in California during the next ten years? At the present time we have over 12,000 attorneys and before the end of 1932 another two or three hundred will probably be added to this number. That will be over 20 per cent net increase in a two year period, and if that rate continues we will have a 100 per cent increase for the 1930 to 1940 decade.

"Can we make room for a 100 per cent increase in the number of attorneys in this state in a ten year period? If we can, then well and good; but if we can not, what are the possible dangers of such an increase? A number of results have been suggested by some of those who have given their time and thought to this question of overcrowding of the bar in the United States, many of which merit consideration.

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